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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,287	11/28/2005	Aki Vanhatalo	915-001.059	9403

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EXAMINER
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CASCA, FRED A

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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10/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/538,287	<b>Applicant(s)</b> VANHATALO, AKI	
	<b>Examiner</b> Fred A. Casca	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/10/2005</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heck et al (US 2005/0064883 A1), in view of Lurie et al (2006/0215826 A1).

Referring to claim 1, Heck discloses a method for transmitting a multimedia message (abstract and figure 1, “the messaging server supports the receipt and storage of a multimedia message”), characterized in that the method includes steps of:

making a request for establishing a connection with a receiver (paragraph 2, “handset complying with 2.5G”, “3G”, note that in any cellular communication system a connection is initiated by making a request first),

automatically starting a multimedia messaging service (MMS) and activating a recording function of a sound clip (abstract and paragraphs 6 and 30, “the multimedia message to be stored”),

recording a voice message as a sound clip of a multimedia message, and transmitting the created multimedia message to the receiver (paragraphs 6, 7, 11 and 12, “the multimedia message is received and stored”).

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Heck fails to specifically disclose recording as response to a failed attempt for establishing a connection as claimed by applicant.

Lurie discloses recording as response to a failed attempt for establishing a connection (figure 8-13, and paragraphs 67 and 72).

It would have been obvious to one of the ordinary skill in the art at the time of invention to modify the method of Heck by incorporating the teachings of Lurie into that of Heck in the format claimed by applicant, for the purpose of providing convenience for the users so that the users can record the intended multimedia message without continuous failed attempts.

Referring to claim 2, the combination of Heck/Lurie disclose the method of claim 1 and further disclose the steps of including an identifier in the multimedia message by which the message can be identified as claimed by applicant (Heck, paragraphs 2-4).

Referring to claim 3, the combinations of Heck/Lurie disclose the method of claim 1 and further disclose the step of attaching, in addition to the sound clip, one of the text, picture, video image or combination of all in the format claimed by applicant (Heck, paragraphs 2-4, abstract, "multimedia message", "MMS").

Referring to claim 4, the combinations of Heck/Lurie disclose the method of claim 1, and further disclose the step of automatically transmitting the message containing the sound clip to the receiver (Heck, paragraphs 2-4 and 6-8).

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Referring to claim 5, the combinations of Heck/Lurie disclose the method of claim 1, and further disclose the step of transmitting to the receiver as a response to confirming the message sending function as claimed (Heck, par 2-8).

Referring to claim 6, the combinations of Heck/Lurie disclose the method of claim 1, and inherently disclose the message transmitted is the number to which the original request for connection is made (Heck, par 4-7).

Referring to claim 7, the combinations of Heck/Lurie disclose the method of claim 1, and further disclose the message istransmitted to the voice mail box of the number to witch the original request for connection was made (Heck, paragraphs 3-8).

Referring to claims 8-14, claims 8-14 define an arrangement for transmitting multimedia messages reciting features analogous to the features of the methods defined by claims 1-7 (as rejected above). Thus, the combination of Heck/Lurie discloses all elements of claims 8-14 (please see the rejection of claim 1-7 above).

Referring to claim 15, the combinations of Heck/Lurie disclose the arrangement of claim 8 and further disclose that said means are programmatic means (Heck, par 4-7, "2.5G", "3G").

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred A. Casca whose telephone number is (571) 272-7918. The examiner can normally be reached on Monday through Friday from 9 to 5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid, can be reached at (571) 272-7922. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
LESTER G. KINCAID  
SUPERVISORY PRIMARY EXAMINER